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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)
	10/692,868	GUNYAKTI ET AL.
	Examiner	Art Unit
	Joshua Murdough	3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 23 October 2007.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-25 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-25 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. _____.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948) Paper No(s)/Mail Date. _____
3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ 5) Notice of Informal Patent Application
6) Other: _____

DETAILED ACTION

Response to Amendment

Applicants' amendment to the claims received on 23 October 2007 has been entered.

Claims 1-25 are currently pending.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 and 8 use the term "un-authenticatable data," which is not defined in the specification. Furthermore, the Examiner believes that, given the correct means, any data is able to be authenticated, even if it has not been authenticated thus far. As the Examiner has not been shown what data is "un-authenticatable" and the Examiner believes that it does not truly exist, the term "un-authenticatable data" has been interpreted as simply being "data."

Claims 2-7 and 9-15 depend from these claims and do not further explain the term, therefore, they are rejected under the same basis.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 4, 5, 8-18, 21, 24, & 25 are rejected under 35 U.S.C. 102(e) as being anticipated by Coley (20020161718).

As to claim 1, Coley shows:

A system for supporting the enforcement of a license for a computer program,

(Abstract) the system comprising:

a licensing component (Figure 1, 110) that maintains a license store in which the

license is stored (Figure 1, 112), the license comprising a right in the software and

a set of data associated with said right, the licensing component exposing a

callable interface to the computer program, said callable interface comprising:

a right-consumption method which receives an identifier of said right from the

computer program and determines whether the right can be exercised; (Figure 2,

A-B) and

an information-retrieval method which receives an identifier of said right from the

computer program and provides said set of data, or information based on said set

of data, to the computer program. (Figure 2(cont.), B-A)

Where the printed matter is not functionally related to the substrate, the printed matter will not distinguish the invention from the prior art in terms of patentability [T]he critical question is whether there exists any new and unobvious functional relationship between the printed matter and the substrate. (In re Gulack, 217 USPQ 401 (Fed. Cir. 1983), In re Ngai, 70

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USPQ2d (Fed. Cir. 2004), In re Lowry, 32 USPQ2d 1031 (Fed. Cir. 1994); MPEP 2106.01 II)

The added phrase, “the licensing component further maintains a trust store in which data is stored” does not show any new and unobvious functional relationship between the licensing component and the storage and therefore has not been given patentable weight.

As to claim 4, Coley further shows:

 said callable interface further comprises: an asynchronous-context-initiator method that establishes a context for asynchronous processing and provides an identifier of said context to the computer program; wherein said rights-consumption method receives the identifier of said context from said computer program and processes a right-consumption request asynchronously in response to receipt of the identifier of said context. (Paragraph 0049 & Figure 2 (cont.), 236)

The added limitation “the licensing component by itself has no ability to cause the computer program to cease operation” would have been readily understood by one of ordinary skill in the art, as there are necessary computer (Figure 1, 100) components such as a processor and RAM required to restrict the operation of the program.

As to claim 5, Coley further shows:

 the rights-consumption method determines whether the right can be exercised based on whether the right is identified in the license. (Paragraph 0047)

As to claim 8, Coley shows:

 A method of restricting the use of a computer program (Figure 2 (cont.), 226) associated with a license (Figure 2, 202), the license specifying a right in the computer program, the method comprising:

invoking a licensing service by making a first call to a first method of an interface of said licensing service, said first call being parameterized by an identifier associated with said right; (Figure 2, 210)

in response to said first call receiving an indication as to whether the right is exercisable; (Figure 2, 214) and engaging in either a first behavior (Figure 2, 218) or a second behavior according to the indication. (Figure 2, 216)

The limitation including "the licensing service in communication with a trust store..." is understood by the Examiner to show a physical communication means, and is not a positive functional recitation. Furthermore, "As to the rejection of the claims on the prior art references, we do not agree with the appellant that such structural limitations as are not disclosed by the references should be given patentable weight. This argument is applicable to claims drawn to structure and not claims drawn to a method. To be entitled to such weight in method claims, the recited structural limitations therein must affect the method in a manipulative sense and not to amount to the mere claiming of a use of a particular structure, which, in our opinion, is the case here.." (Ex parte Pfeiffer, 135 USPQ 31 (BdPatApp&Int 1961))

As to claim 9, Coley further shows:

 said first behavior comprises allowing the computer program to execute (Figure 2 (cont.), 230), and

 wherein said second behavior comprises discontinuing execution of the computer program. (Figure 2 (cont.), 226)

As to claim 10, Coley further shows:

said first behavior comprises allowing the computer program to perform a first set of functions, and wherein said second behavior comprises allowing the computer program to perform a second set of functions that is non-identical to said first set of functions. (Paragraph 0023)

As to claim 11, Coley further shows:

the right is associated with a set of data, (Paragraph 0071)
wherein the method further comprises: making a second call to a second method of said interface, said second method being parameterized by an indication of the right; (Figure 2 (cont.), 224) and in response to said second call, receiving said set of data. (Figure 2 (cont.), 228)

As to claim 12, Coley further shows:

directing the operation of the computer program based on said set of data. (Paragraph 0048)

As to claim 13, Coley further shows:

making a second call to a second method of said interface; and in response to said second call, receiving a handle; (Paragraph 0088)

wherein said second call is made prior to said first call, (Paragraph 0046) and wherein said first call is further parameterized by said handle. (Paragraph 0088)

As to claim 14: Coley further shows:

making a second call to a second method of said interface; and in response to said second call, receiving an asynchronous context; wherein said second call is made prior to said first call, wherein said first call is further parameterized by said

asynchronous context, and wherein the computer program performs at least one action while the first call is handled asynchronously. (Paragraphs 0049-0050)

The referenced invention allows for a second call through an interrupt, which allows the second call to be processed first, and thus asynchronously. After the second call is executed the parameters of the first call are changed, namely the timer that governs the execution of the first call. If the license check is successful, the application is left in the enabled state until the timer causes the first call to execute, thus actions are allowed between the second and first calls.

As to claim 15, Coley further shows:

 said first method determines whether the right is exercisable based on one or more factors comprising: whether the license is bound to a machine or environment on which the computer program is executing; whether the license or right is bound to a product identifier associated with the computer program; whether the license or right has expired; (Figure 2 (cont.), 234) and whether the right has been consumed a number of times in excess of a right specified in the license.

As the claim says one or more factors, the determination on only one factor is all that needs to be shown to reject the claim.

As to claim 16, Coley shows:

 A computer-readable medium having encoded thereon computer-executable instructions to perform a method of enabling the enforcement of a license to a computer program, (Abstract, “Licensing system module”) the method comprising:

receiving a first method call from the computer program, the first method call identifying a right in the computer program; (Figure 2, 210) determining that the right is contained in the license and is exercisable; (Figure 2, 214) and returning to the computer program an indication that the right is exercisable. (Figure 2, 220)

The limitation “through the use of a license store and a trust store” does not carry patentable weight because it is optional. The fact that it “is exercisable” does not mean that it is actually performed. “Language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation.” (MPEP §2106 II C)

As to claim 17, Coley further shows:

the indication comprises a binding of the right to the license. (Figure 2, 216 & 218)

The rights are bound to the license based on the ID written to the license. In the simplest form, if a valid ID is written, the license will enable the program to execute. Conversely, if a null ID is written, the program is disabled.

As to claim 18, Coley further shows:

said determining act is based on whether the right is specified in the license. (Figure 2 (cont.), 226 & 228)

If the ID is valid, which is what the right is based on, the program is enabled. If not, the program is disabled.

As to claim 21, Coley further shows:

said determining act is based on whether the license or right is non-expired. (Figure 2 (cont.), 234)

As to claim 24, Coley further shows:

the method further comprises: receiving a second method call from the computer program; in response to the second method call, returning an asynchronous context to the computer program, wherein the first method call is executed subsequent to the second method call and identifies said asynchronous context; and executing the first method call asynchronously while the computer program performs an action. (Paragraphs 0049-0050)

As to claim 25, Coley further shows:

the right is associated with a set of data, (Paragraph 0041) and wherein the method further comprises:

receiving a second method call which indicates the right; (Figure 2 (cont.), 224) and in response to said second method call, providing the set of data to the computer program. (Figure 2 (cont.) 228)

Claims 1, 3, 6, 7, 16, 19, 20, & 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Hunter (5,375,206).

As to claim 1, Hunter shows:

A system for supporting the enforcement of a license for a computer program, (Abstract) the system comprising:

a licensing component (Figure 2) that maintains a license store in which the license is stored (Figure 1, 112 & Column 3, lines 35-38), the license comprising a right in

the software and a set of data associated with said right, the licensing component exposing a callable interface to the computer program, said callable interface comprising:

a right-consumption method which receives an identifier of said right from the computer program and determines whether the right can be exercised; (Figure 4, 404 & 406) and

an information-retrieval method which receives an identifier of said right from the computer program and provides said set of data, or information based on said set of data, to the computer program. (Figure 5)

As to claim 3, Hunter further shows:

the license is one of a plurality of licenses that are stored in said license store, (Figure 2, 208) and wherein the rights-consumption method causes the licensing component to select the license based on one or more factors comprising:

whether the license store is associated with the computer program; (Figure 8; NETLIS_PRODUCT_NAME, FLEXLM_PRODUCT_NAME & SUNNET_PRODUCT_NAME)

and a conflict rule that determines which license to select from among a plurality of licenses that are associated with the computer program.

As stated in the claim, this is in the alternative, and the alternate option has been shown.

As to claim 6, Hunter further shows:

the computer program and the licensing component execute on a machine, (Figure 1, 100) and wherein the rights-consumption method determines whether the right can be exercised based on whether the license is bound to said machine.

Figure 6, step 624 binds the license to the machine 100 while Figure 7 shows the process of checking to see that the license is still bound to that machine in order to continue operation of the software.

As to claim 7, Hunter further shows:

the computer program is associated with a product identifier, and (Figure 2, 208) This is accomplished through the use of vendor specific library routines, which identify the product to be licensed to the vendor.

wherein the rights-consumption method determines whether the right can be exercised based on whether the license is bound to said machine or

Figure 6, step 624 binds the license to the machine 100 while Figure 7 shows the process of checking to see that the license is still bound to that machine in order to continue operation of the software.

to a class of machines of which said machine is a member.

As stated in the claim, this is in the alternative, and the alternate option has been shown.

As to claim 16, Hunter shows:

A computer-readable medium having encoded thereon computer-executable instructions to perform a method of enabling the enforcement of a license to a computer program, (Abstract) the method comprising:

receiving a first method call from the computer program, the first method call identifying a right in the computer program; (Figure 5, 518) determining that the right is contained in the license and is exercisable; (Figure 5, 520) and returning to the computer program an indication that the right is exercisable. (Figure 5, 522)

As to claim 19, Hunter further shows:

 said determining act is based on whether the license is bound to a machine on which the computer program is executing.

Figure 6, step 624 binds the license to the machine 100 while Figure 7 shows the process of checking to see that the license is still bound to that machine in order to continue operation of the software.

As to claim 20, Hunter further shows:

 said determining act is based on whether the license or right is bound to the computer program. (Figure 8; NETLIS_PRODUCT_NAME, FLEXLM_PRODUCT_NAME & SUNNET_PRODUCT_NAME)

As to claim 23, Hunter further shows:

 the method further comprises: receiving a second method call from the computer program; (Figure 3, 306-310) and in response to the second method call, returning a handle to the computer program that identifies the computer program; (Figure 3, 314)

wherein said first method call is performed subsequent to said second method call, and wherein said first method call further identifies said handle.

The handle is used in the first call, as previously cited, therefore the first call must be subsequent to the second call.

Claims 16 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Cooper (5,563,946).

As to claim 16, Cooper shows:

A computer-readable medium having encoded thereon computer-executable instructions to perform a method of enabling the enforcement of a license to a computer program, (Abstract) the method comprising: receiving a first method call from the computer program, the first method call identifying a right in the computer program; (Figure 7, 239) determining that the right is contained in the license and is exercisable; (Figure 7, 241) and returning to the computer program an indication that the right is exercisable. (Figure 7, 243)

As to claim 22, Cooper further shows:

said determining act is based on whether the license has been consumed a number of times that exceeds a limit. (Column 8, lines 47-49)

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Coley.

Coley shows all of the limitations of claim 1 and further shows:

 said licensing component is usable by a plurality of computer programs, the computer program being included among said plurality of computer programs, (Paragraph 0021)

 wherein said callable interface further comprises: a handle-opening method that provides a handle to the computer program; wherein the rights-consumption method receives the handle from the computer program and uses the handle to identify the computer program from which a call to the rights-consumption method is received. (Paragraph 0088)

Coley does not show:

 wherein the computer program and licensing component are located on a single computing device.

The act of making the program and licensing component integral would have been obvious to one of ordinary skill in the art at the time of the invention. "It would seem scarcely necessary to point out that merely making a two-piece handle in one piece is not patentable invention because it is an obvious thing to do if deemed desirable." (In re Wolfe, 116 USPQ 443, 444 (CCPA 1961); KSR International Co. v. Teleflex Inc., 82 USPQ2d 1385 (U.S. 2007))

Claims 3, 6, 7, 19, 20, & 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Coley in view of Hunter.

As to claim 3, Coley shows all of the elements of claim 1, but does not show:

the license is one of a plurality of licenses that are stored in said license store, and
wherein the rights-consumption method causes the licensing component to select
the license based on one or more factors comprising: whether the license store is
associated with the computer program; and a conflict rule that determines which
license to select from among a plurality of licenses that are associated with the
computer program.

Hunter shows a plurality of licenses in a store (Figure 2, 208) being associated with
different computer programs (Figure 8; NETLIS_PRODUCT_NAME,
FLEXLM_PRODUCT_NAME & SUNNET_PRODUCT_NAME). It would have been obvious
to one of ordinary skill in the art at the time of the invention to have modified the invention of
Coley to use the multiple license storage of Hunter. This would allow for a common licensing
interface for a variety of programs (Abstract).

As to claim 6, Coley show everything except:

the computer program and the licensing component execute on a machine, and
wherein the rights-consumption method determines whether the right can be
exercised based on whether the license is bound to said machine.

Hunter shows that the licensing component can bind the rights to the machine that both
the software and licensing component are executed on. (Figure 1, 100; Figure 6, 624 & Figure 7).
It would have been obvious to one of ordinary skill in the art at the time of the invention to have
modified the invention of Coley with the local license handling of Hunter. This configuration
allows a single system process to manage multiple licenses (Abstract).

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As to claim 7, Hunter further shows that the routines called by the system process cited in the 35 U.S.C. 103(a) rejection of claim 6 act as a product identifier (Figure 2, 208). Therefore, the same 35 U.S.C. 103(a) basis is used.

As to claim 19, Coley shows all of the elements of claim 16, but does not show:

said determining act is based on whether the license is bound to a machine on which the computer program is executing.

Hunter shows that the licensing component can bind the rights to the machine that both the software and licensing component are executed on. (Figure 1, 100; Figure 6, 624 & Figure 7). It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the invention of Coley with the local license handling of Hunter. This configuration allows a single system process to manage multiple licenses (Abstract).

As to claim 20, Coley shows everything except:

said determining act is based on whether the license or right is bound to the computer program.

Hunter shows a plurality of licenses in a store (Figure 2, 208) being associated with different computer programs (Figure 8; NETLIS_PRODUCT_NAME, FLEXLM_PRODUCT_NAME & SUNNET_PRODUCT_NAME). It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the invention of Coley to use the multiple license storage of Hunter. This would allow for a common licensing interface for a variety of programs (Abstract).

As to claim 23, Coley shows everything except:

the method further comprises: receiving a second method call from the computer program; and in response to the second method call, returning a handle to the computer program that identifies the computer program; wherein said first method call is performed subsequent to said second method call, and wherein said first method call further identifies said handle.

Hunter shows the process of obtaining, prior to the call referred to as the “first call” in the instant application, a handle that identifies the program and is used in the “first call” (Figure 3, 306-314). It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the invention of Coley to incorporate the handle usage of Hunter because it allows for better control of the application due to the license actually being associated with the location in memory instead of simply the program name.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Coley in view of Cooper.

Coley shows all of the elements of claim 16, but does not show:

 said determining act is based on whether the license has been consumed a number of times that exceeds a limit.

Cooper shows a licensing configuration that restricts with certain licenses to a limited number of executions of the software (Column 8, lines 47-49). It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the invention of Coley to include the ability to control software executions, as taught by Cooper, in order to allow

for full-featured demos that can only be executed so many times before the demo period expires.

(Column 8, lines 47-49)

Response to Arguments

Applicant's arguments with respect to claims 1-25 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua Murdough whose telephone number is (571) 270-3270. The examiner can normally be reached on Monday - Thursday, 7:00 a.m. - 5:00 p.m.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Fischer can be reached on (571) 272-6779. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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